

**GUALBERTO TENCHAVEZ, PLAINTIFF AND APPELLANT, VS. ATLAS CONSOLIDATED MINING & DEVELOPMENT CO., ET AL.  
DEFENDANTS, ATLAS CONSOLIDATED MINING & DEVELOPMENT CO., MINDA-NAO MOTHER L...**

*G.R. No. L-26153. March 28, 1969*

Ponente: DIZON, J.

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**DIZON, J.:**

On April 14, 1967 plaintiff-appellant Gualberto Tenchavez and defendant-appellant Atlas Consolidated Mining and Development Company filed in this case a joint petition for judgment in accordance with the compromise agreement attached thereto in the form of a public instrument executed jointly by them.

On May 24, 1967 We approved said compromise agreement and rendered judgment in accordance therewith, ordering the parties to comply with all the terms and stipulations thereof.

On July 1, 1967, however, oppositors I. V. Binamira and F. B. Barria filed a motion for the reconsideration of the abovementioned decision, and praying further that their opposition to the approval of the compromise agreement and the dismissal of the appeal, as well as their motion to record their attorneys' lien, be restored and disposed of in due course, and that, in the event of an adverse ruling, Atlas Consolidated Mining and Development Company be ordered to pay them the unpaid balance of P30,000 acknowledged by it "confidentially" in its letter to Tenchavez dated April 19, 1967. In a supplemental motion for reconsideration filed on July 9 of the same year, the same parties alleged that they had filed in the Court of First Instance of Cebu Civil Case No. R-10051 to declare the aforesaid compromise agreement fraudulent, illegal and without force and effect and, as a result, they prayed that this Court hold in abeyance any action on said compromise agreement until said civil case is finally resolved.

On August 24, 1967 We issued a resolution requiring the adverse parties to comment within ten days from notice on the motions for reconsideration just mentioned.

Ernesto T. Morales filed his manifestation and comment on September 5, 1967 in which he prayed that the motions for reconsideration be denied. Atlas submitted its own comment on September 13, 1967 in which it reiterated its prayer for the approval of the compromise agreement. Attys. Elias S. Mendoza and Domingo Quibranza, as oppositors, also filed their comment on October 5, 1967 in which they stated in substance that "a grant of the motion for reconsideration as well as the supplemental motion for reconsideration will tend to aid this Honorable Court in resolving fairly the incident raised in both motions etc.". Oppositors Binamira and Barria likewise filed additional observations in relation to the comments submitted by Atty. Morales and Atlas on October 9, 1967. Tenchavez filed on October 19, 1967 his own reply to the comments submitted by Atlas and Atty. Morales in which he prayed that the compromise agreement be declared fraudulent and, in the alternative, that action on the approval of said agreement be deferred until after Civil Case No. R-10051 is finally resolved. This was followed by a manifestation filed by Atlas on January 30, 1968 praying for the denial of the motions

for reconsideration mentioned heretofore.

Finally, on January 3, 1969 a pleading entitled "WITHDRAWAL OF OPPOSITION TO THE APPROVAL OF THE COMPROMISE AGREEMENT" was filed by plaintiff-appellant Gualberto B. Tenchavez, with the marital consent of Elena S. Ten-chavez, and by Attys. Barria and Binamira, praying that "this withdrawal of opposition be approved; that the compromise judgment of this Hon. Court dated May 24, 1967 be declared final and executory; and that Atlas Consolidated Mining & Dev. Corp. et also be ordered to deposit P180,000.00 with the Court of First Instance of Cebu at once and so that these above related cases be thereafter, deemed settled, closed and terminated".

Copy of said pleading appears to have been served on Atlas, through its attorney of record, to Attorneys Ernesto T. Morales, Virgilio Llanto, Elias Mendoza and Domingo Quibranza and other parties in interest.

On January 10, 1969 We issued a resolution re-quiring all the parties concerned to comment on the pleading mentioned above within ten days from notice. The record shows that said comments were filed by Atlas on January 28, 1969 in which it prayed that the judgment by compromise rendered in this case be declared final and executory; by Attys. Mendoza and Quibranza on February 14, 1969 who stated therein that they find "no ground to oppose the step taken by Attys. Binamira and Barrie in withdrawing their opposition to the approval of the compromise agreement x x x provided that after the withdrawal of said opposition defendant-appellant Atlas Consolidated Mining and Development Corporation will deposit with the Court of First Instance of Cebu in Civil Case R-10051 of said Court entitled 'I. B. Binamira et al. vs. Ernesto T. Morales et al.' the sum of P180,000 for attorney's fees and claims of assignees exclusively as mentioned in a manifestation dated January 27, 1969 filed before this Honorable Court by Atlas Consolidated Mining and Development Corporation"; by defendants-appellants Alfaro Pastor, Jr. and Efrain Pelaez on February 17, 1969 in which they manifested that they submit the matter to the sound discretion of this Court considering all the pleadings filed by the parties; by Atty. Ernesto T. Morales on February 20, 1969 in which he states that he has no objection to the withdrawal of the opposition of Tenchavez and others to the approval of the compromise agreement dated April 12, 1967 and approved by this Court in its decision promulgated on May 24, 1967, subject to certain conditions set forth therein.

As it appears that the parties concerned have no objection to the withdrawal of the opposition filed by Tenchavez, Binamira and Barria to the approval of the compromise agreement mentioned heretofore and certain conditions set forth in two of them constitute no reason for the disapproval of the withdrawal, it is hereby resolved that said opposition be considered as it is hereby considered withdrawn. As a consequence, the judgment by compromise rendered heretofore is declared final and executory.

Concepcion, C.J., Reyes, JBL, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Capistrano, and Barredo, JJ., concur.

Teehankee, J., took no part.

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